

Workshop 4:

New forms of transborder and inter-territorial cooperation at the local and regional level

Introduction

Over the last two decades we have witnessed a major growth in transborder and inter-territorial cooperation by local authorities and regions in Europe, as a result of ongoing European integration. Such cooperation can take many different forms, depending on the concrete needs of the local and regional entities involved, on the one hand, and the room-of-manoeuve and the respective competences of the local and regional actors, on the other hand. The workshop discussed this increased heterogeneity and the reasons for (different forms) of cooperation. In addition common factors for successful cooperation were identified. Attention was also paid to the organizational framework for transborder and inter-territorial cooperation and the initiatives taken by both the Council for Europe and the European Union to create common legal provisions in this field.

In this workshop report, we will first highlight the main outcomes of the workshop delegates' presentations and deliberations, focusing on:

- different forms of cooperation;
- the added value of cross-border cooperation;
- factors that contribute to successful cross-border cooperation;
- (common) legal frameworks for cross-border cooperation.

Subsequently, *recommendations* will be presented.

Diversity

There is considerable conceptual confusion regarding transborder and inter-territorial cooperation.

Based on the geographical scope three main forms of cooperation can be distinguished:

- cross-border cooperation: collaboration with two or more adjacent local and regional entities situated in different but neighbouring states;
- inter-regional cooperation: collaboration between non-adjacent local and regional authorities (e.g. town-twinning);
- transnational cooperation: cooperation linked to a specific geographic area, involving both regional and local as well as national authorities situated in this specific area. Examples are the Carpathian Euroregion and the Black Sea Euroregion.

In the workshop the focus was on cross-border cooperation and transnational cooperation. In the remainder of this report we will simply refer to cross-border cooperation for both types of cooperation.

Apart from the geographical scope, the workshop discussed two more dimensions according to which cross-border cooperation can differ. First, the context in which the cooperation takes place can vary depending on the type of border. Cooperation can take place across an administrative border that separates people with the same language and culture, but it could also be that cooperation has to go across physical, language and cultural barriers. From a pan-European perspective most workshop delegates emphasized the importance of distinguishing between different possible contexts in which cooperation within the Council of Europe can take place:

- cooperation across “old EU-15”-borders only;
- cooperation between old and new EU members across the new (post-2004-enlargement) EU internal borders;
- cooperation across the borders of “new” EU Member States;
- cooperation across the external EU borders with EU-candidate countries;
- cross-border cooperation between EU-candidate countries;
- cooperation across the external EU borders with non EU-candidate countries;
- cooperation between non EU-candidate countries.

Secondly, the administrative structures were discussed, or the degree of institutionalization of cross-border cooperation, which can range from weak to strong. Cross-border cooperation can make use of short-term structures (like single projects for a specific purpose) or of permanent long-term structures covering various thematic issues. In some cases of cross-border cooperation institutionalization is rather weak, like with the so called Working Communities (e.g. ARGE ALP, ALPE ADRIA, Bodenseekonferenz) and the so called Eurodistricts (e.g. Strassburg-Ortenau, Eurodistrict Basel). Most of the permanent structures bear the denomination Euroregion, but this term still covers a variety of cross-border cooperation schemes. Some Euroregions have cross-border institutions and their own budget, whereas others are limited to informal contacts and loose forms of collaboration. Some have a private or public law status; others do not have a legal status at all.

The added value of cross-border cooperation

In the workshop repeatedly references were made to the Lisbon Agenda and the need for regions and local communities to adopt a local approach to globalisation issues. In most European countries border regions tend to be “on the edge of the table” from the perspective of national capitals, but at the same time borders are the gateways to Europe and provide access to international markets. Cross-border cooperation can strengthen the profile of border regions and can thus reverse marginalization.

Most cross-border cooperation nowadays deals with fields like regional economic development, transport and traffic, innovation and technology transfers and tourism and leisure, i.e. it is used to strengthen the economic profile of cross-border regions. In addition, cross-border cooperation is used to solve typical cross-border issues in the field of labour mobility, health services, emergency services and disaster prevention. Moreover, cross-border cooperation can be used as a policy learning device by the exchange of information and experience in various policy fields across borders. Regarding the latter issue, the workshop extensively discussed the exchange of “best practices” by means of inter-territorial cooperation and the subsistent difficulties in terms of transferability. Finally, from the broader perspective of European integration it was argued that cross-border regions can be the laboratories of further integration.

Factors that contribute to successful cross-border cooperation

The workshop delegates identified the following main factors that contribute to successful cross-border cooperation. First, cross-border cooperation should be set up using a step-by-step approach in which the contents of the cooperation comes first and the administrative structure comes second. The administrative structures should be lean and mean. Secondly, cross-border cooperation should be based on personal contacts, on a people-to-people approach (p-2-p). Key

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players should be committed to the cooperation on a personal basis. Cooperation should include all relevant actors, including governments, businesses, and organisations from civil society. Citizen involvement is highly important as cross-border cooperation is currently often perceived by citizens as a remote activity which is not part of the core business of regional and local authorities, in spite of the high possible added value of cross-border cooperation for citizens. To keep administrative structures light such citizen involvement could best be of a participatory rather than a representative nature.

Thirdly, common objectives should be clearly identified but at the same time differences in interests should be acknowledged. Cooperation should aim at complementarities. The objectives should be practical and tangible. They should aim at a win-win-situation for all involved. Activities should be praxis-oriented.

Fourthly, the key actors involved should have the proper competencies to get engaged in cross-border cooperation and should not be hindered by higher level government. Trust and political will on all levels of government are essential.

Finally, intercultural differences should not be ignored. Borders are real. They should be accepted and dealt with. Intercultural understanding is a key factor to success.

Towards common legal frameworks for cross-border cooperation

It could be argued that the absence of a pan-European legal framework for cross-border cooperation lies behind much of the legal-administrative diversity that can be witnessed in practice. In that light the workshop discussed the introduction in 2006 of the Regulation on a European Grouping of Territorial Cooperation (EGTC) by the European Union. This Regulation provides for an optional legal tool to structure cross-border cooperation between at least two EU member states. Members of an EGTC can be member states, regional and local authorities and bodies governed by public law. An EGTC has (public) legal personality and has to comply with certain minimum requirements in terms of its administrative structure. So far seven EGTCs have been set-up using this Regulation.

Even though the workshop delegates in general took a positive view on the EGTC tool, it was repeatedly argued that a common legal framework is neither a sufficient nor a necessary condition for successful cooperation. If cooperation partners are willing to cooperate, they will always find an administrative structure to cover their needs. From that perspective it is convenient that the EGTC tool is optional and that local and regional authorities are always entitled to use other legal forms of cooperation, if they prefer to do so. In general the workshop delegates felt that regional and local authorities should be in a position in which legal-administrative obstacles for cooperation should be reduced to a minimum. This does not imply however the need for a search for a new common metastructure.

In the discussion, it was established that the EGTC tool has two major drawbacks. First, even though the character of a Regulation suggests otherwise, the EGTC Regulation is restricted by the limitations stemming from national law, since the final decision on whether an entity is entitled to participate in an EGTC is in the hands of central government and is dependent on the respective national legislation. Secondly, the EGTC tool cannot be used in the case of bilateral cooperation between an EU member state and a third state due to the requirement of involvement of at least two EU member states.

As far as the draft third protocol to the Council of Europe's Madrid outline convention on Euroregional Cooperation Groupings is concerned, the delegates pointed out that it is important to make the EU EGTC framework and the CoE ECG framework as compatible as possible. The delegates also stressed the importance of ratification and transposition of the first two protocols to the Madrid convention by CoE member states.

Recommendations

1. Strengthening and intensifying cross-border cooperation within Europe is a common responsibility of all levels of government involved (regional/local authorities, nation states, supranational organisations).
2. The Council of Europe should cooperate closely in this field with other supranational organisations, including the EU, the OECD and the Association of European Border Regions (AEBR).
3. The Council of Europe should continue to aim at diminishing legal obstacles for cross-border cooperation. It should continue to make efforts to provide financial instruments and reduce differences in legislation at the national and European level. It should especially ensure that common legal frameworks as the EGTC and the EGC are compatible and flexible in their application.
4. The Council of Europe should re-enforce the ratification and transposition of the first two protocols to the Madrid convention by its member states, in order to give these instruments the greatest possible effect.
5. The Council of Europe and its member states should facilitate –both legally and financially the carrying out of experiments in cross-border cooperation (“laboratory cross-border cooperation”, or -in Dutch- “experimenteerregio’s”), especially with regard to the administrative structures used.
6. The Council of Europe, together with other organisations, should create an effective communication structure for cross-border cooperation practices. This structure should enable all actors involved to share both new and already existing documentation, information and experiences. The exchange of “best” or “good” practices should take into account problems of transferability and should be evidence-based.
7. As intercultural understanding is a key factor to successful cross-border cooperation, the Council of Europe should strengthen its activities aimed at improving the intercultural dialogue among its members.
8. Regional and local authorities involved in cross-border cooperation should adhere to the general principles of good governance. They should aim at increasing the involvement of citizens in issues of cross-border cooperation and at increasing democratic accountability.